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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91221609
Party	Defendant Navarro, Ricardo
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Date	07/30/2015
Attachments	STUNNIN Answer Final.pdf(117427 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

CHICO'S BRANDS INVESTMENTS, INC.,	Proceeding No. 91221609
Opposer,	Mark: STUNNIN
Vs.	Serial No. 86261029
RICARDO NAVARRO,	Published: April 21, 2015
Applicant.	

**APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES TO OPPOSER'S NOTICE
OF OPPOSITION**

Applicant, RICARDO NAVARRO, an individual with an address of 1705 Cal. Edison Appt. # F-135 Laughlin, NV 89029 ("Applicant"), through its undersigned attorney, submits its Answer and Affirmative Defenses to the Notice of Opposition ("Opposition") filed by CHICO'S BRANDS INVESTMENTS, INC., ("Opposer") on April 22, 2015 as follows:

In response to the grounds for opposition enumerated in Opposer's Electronic System for Trademark Trials and Appeals ("ESTTA") Notice of Opposition form, Applicant denies that there are any grounds to sustain the opposition and denies that Opposer owns any mark(s) sufficient to constitute a basis for this Opposition.

In response to the first unnumbered paragraph, Applicant admits that the records of the Trademark Status and Document Retrieval ("TSDR") of the United States Patent and Trademark Office ("USPTO") reflect that Applicant owns Serial No. 86261029. Except as expressly admitted, Applicant denies each and every remaining allegation in the first unnumbered paragraph of the Opposition.

1. In response to Paragraph 1, Applicant admits that the records of the TSDR of the USPTO reflect that Opposer is the owner of Registration No. 4629220. Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 1 of the Opposition.
2. In response to Paragraph 2, Applicant responds that Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 2 and, therefore, denies each and every allegation in paragraph 2 of the Opposition.
3. In response to Paragraph 3, Applicant responds that Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 3 and, therefore, denies each and every allegation in paragraph 3 of the Opposition.
4. In response to paragraph 4, Applicant admits that the records of the TSDR of the USPTO reflect that Opposer is the owner of Registration No. 4629220. Applicant admits that the records of the TSDR reflect that Registration was filed on December 7, 2012 with an intent to use basis in connection with “Bras; Lingerie; Panties; Undergarments”. Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 4 of the Opposition.
5. In response to Paragraph 5, Applicant admits that the records of the TSDR of the USPTO reflect that Applicant is the owner of Serial No. 86261029. Applicant admits that the records of the TSDR of the USPTO reflect that the application was filed on April 24, 2014 for the following goods in Class 025: “Clothing, namely, t-shirts, shirts, tops, sweaters, sweatshirts, hooded sweatshirts; coats, jerseys, jackets; bottoms, pants, trousers, jeans, shorts, sweatpants, pajamas; dresses; skirts; blouses; underwear; swimwear;

headwear; footwear; belts, ties, gloves, socks.” Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 5 of the Opposition.

6. In response to Paragraph 6, Applicant denies each and every allegation in paragraph 6 of the Opposition.
7. In response to Paragraph 7, Applicant admits that the records of the TSDR of the USPTO reflect that Applicant’s application was filed on April 24, 2014. Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 7 of the Opposition.
8. In response to Paragraph 8, this paragraph states legal conclusions of the Opposer, to which no answer is required. To the extent that a response is required, Applicant denies each and every allegation in paragraph 8 of the Opposition.
9. In response to Paragraph 9, this paragraph states legal conclusions of the Opposer, to which no answer is required. To the extent that a response is required, Applicant denies each and every allegation in paragraph 9 of the Opposition.
10. In response to Paragraph 10, this paragraph states legal conclusions of the Opposer, to which no answer is required. To the extent that a response is required, Applicant denies each and every allegation in paragraph 10 of the Opposition.
11. In response to Paragraph 11, this paragraph states legal conclusions of the Opposer, to which no answer is required. To the extent that a response is required, Applicant responds that Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 11 and denies each and every allegation in paragraph 11 of the Opposition.

12. In response to Paragraph 12, this paragraph states legal conclusions of the Opposer, to which no answer is required. To the extent that a response is required, Applicant denies each and every allegation in paragraph 12 of the Opposition.

13. In response to Paragraph 13, this paragraph states legal conclusions of the Opposer, to which no answer is required. To the extent that a response is required, Applicant denies each and every allegation in paragraph 12 of the Opposition.

In response to the final unnumbered paragraph, Applicant denies each and every remaining allegation in the final unnumbered paragraph of the Opposition.

AFFIRMATIVE DEFENSES

By way of further answer, Applicant alleges and asserts the following defenses in response to the allegations contained in the Notice of Opposition. In this regard, Applicant undertakes the burden of proof only as to those defenses that are deemed affirmative defenses by law, regardless of how such defenses are denominated in the instant Answer. Applicant reserves the right to assert other affirmative defenses as this opposition proceeds based on further discovery, legal research, or analysis that may supply additional facts or lend new meaning or clarification to Opposer's claims that are not apparent on the face of the Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE **FAILURE TO STATE A CLAIM**

14. Opposer's claims are barred because the Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE
LACK OF STANDING

15. Opposer's claims are barred, in whole or in part, because Opposer does not have standing in that Opposer does not have rights, superior or otherwise, sufficient to support the Notice of Opposition.

THIRD AFFIRMATIVE DEFENSE
NO INJURY OR DAMAGE

16. Opposer's claims are barred, in whole or in part, because Opposer has not and will not suffer any injury or damage from the registration of Applicant's mark

FOURTH AFFIRMATIVE DEFENSE
NO BASIS

17. Opposer has no basis either in law or fact, to sustain an opposition of Applicant's mark.

FIFTH AFFIRMATIVE DEFENSE
LACK OF LIKLIHOOD OF CONFUSION

18. Applicant argues that Opposer does not own common law rights or any registered marks that would be confused with Applicant's mark in terms of sight, sound, meaning and commercial impression.
19. Applicant's mark differs in terms of sight, sound, and meaning from Opposer's claimed mark and has a distinct commercial impression from Opposer's claimed mark.
20. Applicant's mark does not create a likelihood of confusion among the relevant purchasing public that Applicant's products are offered, are sponsored by, or are otherwise endorsed by Opposer. Nor does Applicant's use of Applicant's mark create the likelihood that consumers will falsely believe that Applicant and Opposer are affiliated in any way.

SIXTH AFFIRMATIVE DEFENSE

21. Applicant reserves the right to assert any and all other affirmative defenses of which it becomes aware during the pendency of this matter.

WHEREFORE, Applicant requests judgment as follows:

1. That the Notice of Opposition be dismissed with prejudice;
2. That Applicant be granted further reasonable and appropriate relief.

Dated: July 30, 2015

Respectfully Submitted,

/s/ Chris Civil

Christopher Civil
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Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION is being served by mailing a copy thereof, by United Parcel Service addressed to the following individuals, identified in the Notice of Opposition as the attorneys of record and correspondents on this 30th day of July, 2015:

JENNIFER MORRIS
CHICO'S FAS, INC.
11215 METRO PARKWAY
FORT MYER, FL 33928
UNITED STATES

and a courtesy copy via email to:

jennifer.morris@chicos.com

/s/ Chris Civil

Christopher Civil
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